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MONTANA LEGISLATIVE HISTORY

Chapter 24 19 85

Bill H ~~Exp~~ 6 S _____ Original bill & history ✓ C

H. Committee on Natural Res			S. Committee on Natural Res		
Hearing Date(s)	1-9	✓ C	Hearing Date(s)	1-30	✓ C
	1-14	✓ C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1/12	3RD READING PASS	90	2
	TRANSMITTED TO SENATE		
1/14	REFERRED TO STATE ADMINISTRATION		
1/22	HEARING		
1/22	COMMITTEE REPORT-BILL CONCURRED		
1/23	2ND READING CONCURRED	49	0
1/25	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
1/30	SIGNED BY SPEAKER		
1/30	SIGNED BY PRESIDENT		
1/30	TRANSMITTED TO GOVERNOR		
2/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 3 EFFECTIVE DATE: 10/01/85		

HB 5 INTRODUCED BY MANUEL
CLARIFY LEGISLATOR COMPENSATION AND EXPENSES
BY REQUEST OF LEGISLATIVE COUNCIL

1/07	INTRODUCED		
1/07	REFERRED TO STATE ADMINISTRATION		
1/09	HEARING		
1/09	COMMITTEE REPORT-BILL DO PASS		
1/10	FISCAL NOTE REQUESTED		
1/12	2ND READING PASS AS AMENDED	72	20
1/14	3RD READING PASS	87	8
1/14	FISCAL NOTE RECEIVED		
	TRANSMITTED TO SENATE		
1/15	REFERRED TO STATE ADMINISTRATION		
1/25	HEARING		
1/26	COMMITTEE REPORT-BILL CONCURRED		
1/28	2ND READING CONCURRED	48	0
1/30	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE		
2/02	SIGNED BY SPEAKER		
2/02	SIGNED BY PRESIDENT		
2/04	TRANSMITTED TO GOVERNOR		
2/05	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 8 EFFECTIVE DATE: 2/05/85		

HB 6 INTRODUCED BY MARKS
GENERALLY CLARIFY MINING AND WATER LAW
BY REQUEST OF CODE COMMISSIONER

1/07	INTRODUCED		
1/07	REFERRED TO NATURAL RESOURCES		
1/09	HEARING		
1/15	COMMITTEE REPORT-BILL PASS AS AMENDED		
1/17	2ND READING PASS	97	0
1/19	3RD READING PASS	84	0
	TRANSMITTED TO SENATE		
1/22	REFERRED TO NATURAL RESOURCES		
1/30	HEARING		
1/31	COMMITTEE REPORT-BILL CONCURRED		

2/02	2ND READING CONCURRED	46	0
2/05	3RD READING CONCURRED	45	0
	RETURNED TO HOUSE		
2/08	SIGNED BY SPEAKER		
2/08	SIGNED BY PRESIDENT		
2/08	TRANSMITTED TO GOVERNOR		
2/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 24 EFFECTIVE DATE: 10/01/85		

HB 7 INTRODUCED BY MARKS
COUNCIL AUTHORITY TO DISTRIBUTE AND SET PRICE FOR CONSTITUTIONAL CONVENTION PROCEEDINGS
BY REQUEST OF LEGISLATIVE COUNCIL

1/07	INTRODUCED		
1/07	REFERRED TO STATE ADMINISTRATION		
1/08	HEARING		
1/08	COMMITTEE REPORT-BILL DO PASS		
1/09	2ND READING PASS	98	1
1/10	FISCAL NOTE REQUESTED		
1/11	3RD READING PASS	97	0
	TRANSMITTED TO SENATE		
1/14	REFERRED TO STATE ADMINISTRATION		
1/14	FISCAL NOTE RECEIVED		
1/22	HEARING		
1/22	COMMITTEE REPORT-BILL CONCURRED		
1/23	2ND READING CONCURRED	49	0
1/25	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
1/30	SIGNED BY SPEAKER		
1/30	SIGNED BY PRESIDENT		
1/30	TRANSMITTED TO GOVERNOR		
2/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 4 EFFECTIVE DATE: 2/04/85		

HB 8 INTRODUCED BY MARKS
REVISE AND CLARIFY LOCAL GOVERNMENT LAW
BY REQUEST OF CODE COMMISSIONER

1/07	INTRODUCED		
1/07	REFERRED TO LOCAL GOVERNMENT		
1/08	HEARING		
1/09	COMMITTEE REPORT-BILL DO PASS		
1/11	2ND READING PASS	98	0
1/14	3RD READING PASS	95	1
	TRANSMITTED TO SENATE		
1/15	REFERRED TO LOCAL GOVERNMENT		
3/05	HEARING		
3/06	COMM REPORT-BILL CONCURRED AS AMENDED		
3/08	2ND READING CONCURRED	49	0
3/11	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/15	2ND READING AMENDMENTS CONCURRED	94	0

HOUSE BILL NO. 6

INTRODUCED BY MARKS

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 7, 1985	Introduced and referred to Committee on Natural Resources.
January 15, 1985	Committee recommend bill do pass as amended. Report adopted.
January 16, 1985	Bill printed and placed on members' desks.
January 17, 1985	Second reading, do pass.
	Considered correctly engrossed.
January 19, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 22, 1985	Introduced and referred to Committee on Natural Resources.
January 31, 1985	Committee recommend bill be concurred in. Report adopted.
February 2, 1985	Second reading, concurred in.
February 5, 1985	Third reading, concurred in. Ayes, 45; Noes, 0.
	Returned to House.

IN THE HOUSE

February 6, 1985	Received from Senate.
	Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 6

AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO MINING AND TO WATER RIGHTS AND USE; AMENDING SECTIONS 82-4-254, 85-2-123, 85-8-624, AND 90-6-307, MCA, AND SECTION 3, CHAPTER 706, LAWS OF 1983; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SECTION 2.

Section 1. 82-4-254. This amendment carries out the obvious intent of the 1983 Legislature, which amended this section by inserting subsection (2). That intent was to provide that a minor violation civil penalty may be waived upon a department determination that the violation is not of potential harm and does not impair the administration of The Montana Strip and Underground Mine Reclamation Act.

Section 2. Section 3, Ch. 706, L. 1983. The intent of the 1983 Legislature was to suspend the operation of 85-1-121 until July 1, 1985. Section 7 of Ch. 706 provides that "[t]his act terminates July 1, 1985." As long as the act terminates on that date, 85-1-121 is revived on that date whether it is "suspended" or "repealed". However, technically speaking, the proper drafting technique is to suspend. To "repeal" implies the possibility that the repealed law is not revived when the act that repealed the law terminates. To ensure that the amendment is in place prior to the July 1, 1985, revival date, it is made effective on passage and approval (see section 6 of the bill).

Section 3. 85-2-123. Section 85-2-241 is a specific exception to the 85-2-123 provision that collected fees and penalties be deposited in the water right appropriation account. Therefore, 85-2-123 should specifically provide that the fees and penalties are deposited except as provided in 85-2-124 and 85-2-241.

Section 4. 85-8-624. Subsections (3)(a), (c), and (d) require an election notice as provided in "85-8-303" and specifically refer to "85-8-303".

Section 85-8-303 was repealed by section 15, Ch. 27, L. 1981. It provided that 40 days' notice of an election of drainage district commissioners be given by the secretary of the board of commissioners and that the notice be given by mail to all landowners in the district stating the time and place of the election.

Inadvertently, when 85-8-303 was repealed, nothing was substituted for the references to that section in 85-8-624(3)(a), (c), and (d). The problem thus arises as to

the type of notice to give for an 85-8-624 election to authorize assessments on improvements.

When Ch. 27, L. 1981, repealed 85-8-303, it provided, in section 8 (codified in 13-1-401), a new method for giving notice of election of drainage district commissioners. Section 4 of this Code Commissioner Bill amends 85-8-624 to substitute that new method for the repealed method. The end result is that, as was the case before 85-8-303 was repealed, notice of an 85-8-624 election will be the same type of notice as must be given for election of commissioners. Since, prior to repeal of 85-8-303, the Legislature wanted the same type of notice for the two elections, the assumption behind this Code Commissioner Bill amendment is that the Legislature still wants the two elections to have the same type of notice.

Section 5. 90-6-307. The subsection (10) reference to "impact fund" is changed to "impact account" to conform the name to 90-6-304, which establishes an "account".

Section 6. Effective date. See explanation for section 2.

HOUSE BILL NO. 6

INTRODUCED BY MARKS

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO MINING AND TO WATER RIGHTS AND USE; AMENDING SECTIONS 82-4-254, 85-2-123, 85-8-624, AND 90-6-307, MCA, AND SECTION 3, CHAPTER 706, LAWS OF 1983; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SECTION 2."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-4-254, MCA, is amended to read:

"82-4-254. Violation -- penalty -- waiver. (1) Except as provided in subsection (2), a person or operator who violates any of the provisions of this part, rules or orders adopted under this part, or term or condition of a permit and any director, officer, or agent of a corporation who willfully authorizes, orders, or carries out a violation shall pay a civil penalty of not less than $100 or more than $5,000 for the violation and an additional civil penalty of not less than $100 or more than $5,000 for each day during which a violation continues and may be enjoined from continuing such violations as hereinafter provided in this section. Any person or operator who fails to correct a violation within the period permitted by law, rule of the board or department, or order of the commissioner shall be assessed a penalty of not less than $750 for each day during which such failure or violation continues. The period permitted for correction of a violation shall not, in the case of any review proceeding under 82-4-251(6), end until entry of a final order suspending the abatement requirements or until entry of an order of court ordering suspension of the abatement requirements.

(2) The department may waive the civil penalty for a minor violation of this part, a rule or order adopted under this part, or a term or condition of a permit if the department determines such violation is not of potential harm to public health, public safety, or the environment ~~or impairs~~ and does not impair the administration of this part. The board of land commissioners shall adopt rules to implement and administer a procedure for waiver of a penalty under this subsection.

(3) The department shall notify the person or operator of the violation. The person or operator shall by filing a written request within 20 days of receipt of the notice of violation be entitled to a hearing on the issues of whether the alleged violation has occurred and whether the penalty proposed to be assessed is proper. The department shall issue a statement of proposed penalty no more than 10 days after notice of violation. After the hearing or after the

time for requesting a hearing has expired, the board shall make findings of fact and shall issue a written decision as to the occurrence of the violation and the amount of penalty warranted and shall order the payment of a penalty in that amount. The person or operator shall remit the amount of the penalty within 30 days of the order. If the person or operator wishes to obtain judicial review of the assessment, he shall submit with the penalty a statement that the penalty is being paid under protest and the department shall hold the payment in escrow until judicial review is complete. Any person or operator who fails to request and submit testimony at the hearing provided for in this subsection or who fails to pay the assessed penalty under protest within 30 days of the order assessing the penalty forfeits his right to seek judicial review of the violation or penalty determinations. These penalties are recoverable in any action brought in the name of the state of Montana by the attorney general in the district court of the first judicial district of this state, in and for the county of Lewis and Clark, or the district having jurisdiction over the defendant.

(4) The attorney general shall, upon request of the commissioner, sue for the recovery of the penalties provided for in this section and bring an action for a restraining order or temporary or permanent injunction against an

operator or other person who:

(a) violates, threatens to violate, or fails or refuses to comply with any order or decision issued under this part;

(b) interferes with, hinders, or delays the department in carrying out the provisions of ~~the~~ this part;

(c) refuses to admit an authorized representative of the department to the permit area;

(d) refuses to permit inspection of the permit area by an authorized representative of the department;

(e) refuses to furnish any information or report requested by the department in furtherance of the provisions of this part;

(f) refuses to permit access to and copying of such records as the department determines to be necessary in carrying out the provisions of this part.

(5) Any relief granted by a court under subsection (4)(a) continues in effect until the completion or final termination of all proceedings for review of such under this part unless, prior thereto, the district court granting the relief sets it aside or modifies it.

(6) A person who violates any of the provisions of this part or any determination or order adopted under this part or who willfully violates any permit condition issued under this part is guilty of a misdemeanor and shall be

fined not less than $500 and not more than $10,000 or imprisoned for not more than 1 year, or both. Each day on which the violation occurs constitutes a separate offense.

(7) Any person who knowingly makes any false statement, representation, or certification or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this part shall upon conviction be punished by a fine of not more than $10,000 or by imprisonment for not more than 1 year, or both.

(8) Any person who except as permitted by law willfully resists, prevents, impedes, or interferes with the department or its agents in the performance of duties pursuant to this part shall be punished by a fine of not more than $5,000 or by imprisonment for not more than 1 year, or both.

(9) No employee of the department performing any function or duty under this part shall have a direct or indirect financial interest in any strip- or underground-coal-mining operation. Whoever knowingly violates the provisions of this subsection shall upon conviction be punished by a fine of not more than $2,500 or by imprisonment of not more than 1 year, or both."

Section 2. Section 3, Chapter 706, Laws of 1983, is

amended to read:

"Section 3. ~~Repealer~~ Suspension. Section 85-1-121, MCA, is ~~repealed~~ suspended."

Section 3. Section 85-2-123, MCA, is amended to read:

"85-2-123. Deposit of fees and penalties. Except as provided in 85-2-124 and 85-2-241, all fees and penalties collected under this chapter shall be deposited in the water right appropriation account established in 85-2-318. All penalties or fines imposed by any court for a violation of this chapter shall be deposited in the general fund of the county where the court presides and shall be disposed of in the same manner as any other penalty or fine."

Section 4. Section 85-8-624, MCA, is amended to read:

"85-8-624. Assessments on improvements -- taxpayers' approval, limitations, and election procedures. (1) It shall require a vote of the persons on the assessment rolls in any existing district to make Chapter 409, Laws of 1973, applicable to such districts.

(2) Nothing in Chapter 409, Laws of 1973, confers upon districts created for drainage purposes only the authority to levy assessments on benefits to improvements.

(3) The election provided for by subsection (1) shall be governed by the following rules:

(a) Notice of the election shall be as provided in ~~85-8-303~~ 13-1-401(3).

(b) The manner of conducting the election shall be as provided in 85-8-304 and as nearly as practicable in accordance with the provisions of the general election laws of the state, except that no registration may be required.

(c) The qualifications of electors shall be as provided in 85-8-305, except that, in addition to persons holding title or evidence of title to lands within the district, any person as therein defined who does not own land within the district but has been assessed or will have his improvements assessed under Chapter 409, Laws of 1973, or who will be assessed for benefits received shall be entitled to one vote. Commissioners shall prepare a list of such persons and the election administrator or deputy election administrator shall give them notice as provided in ~~85-8-303~~ 13-1-401(3).

(d) The commissioners of any district in existence prior to March 21, 1973, who wish to hold an election to determine if the district shall be governed by Chapter 409, Laws of 1973, shall at any regular or special meeting adopt a resolution calling for an election to determine whether or not the voters of said district wish to be governed by Chapter 409, Laws of 1973. The resolution shall contain a short summary of the changes made by Chapter 409, Laws of 1973, and ~~shall include~~ the summary ~~as part of~~ must be included in the notice provided for by ~~85-8-303~~ 13-1-401(3).

In addition, the commission shall provide copies of Chapter 409, Laws of 1973, to any person interested in obtaining a copy of the same and the notice to the persons in the district calling the election shall describe where and how copies may be obtained. The commissioners may authorize a reasonable charge for providing said copies, not to exceed 20 cents per page.

(e) The ballot shall include the summary as provided for in the preceding subsection and the form of the ballot shall conform as closely as possible to that provided for in Title 13, chapter 27.

(f) A simple majority of those who cast valid ballots shall determine the outcome of the election."

Section 5. Section 90-6-307, MCA, is amended to read:

"90-6-307. Impact plan to be submitted. (1) After an application for a permit for a large-scale mineral development is made under 82-4-335, the person seeking the permit shall submit to the affected counties and the board an impact plan describing the economic impact the large-scale mineral development will have on local government units and shall file proof of such submission to the counties with the board. Whenever an environmental impact statement on the permit application is prepared under 75-1-201, the lead agency shall cooperate to the fullest extent practicable with the affected local government units

to eliminate duplication of effort in data collection. The governing bodies of the affected counties shall publish notice of the submission of an impact plan at least once in a newspaper of general circulation in the county. The impact plan shall include:

(a) a timetable for development, including the opening date of the development and the estimated closing date;

(b) the estimated number of persons coming into the impacted area as a result of the development;

(c) the increased capital and operating cost to local government units for providing services, including but not limited to police and fire protection, sewage, water treatment, schools, road construction and upkeep, education, and medical care, which can be expected as a result of the development;

(d) the financial or other assistance the developer will give to local government units to meet the increased need for services.

(2) In the impact plan, the developer shall commit itself to pay all of the increased capital and net operating cost to local government units that will be a result of the development, either from tax prepayments, as provided in 90-6-309, special industrial educational impact bonds, as provided in 90-6-310, or other funds obtained from the developer, and shall provide a time schedule within which it

will do so.

(3) Upon request of the governing body of an affected unit of local government, the mineral developer, prior to commencement of the 90-day review period, shall provide financial or other assistance as necessary to prepare for and evaluate the impact plan. The governing body of the affected county must contract with the developer to obtain the requested financial assistance for each unit of local government within the county. Any disbursements to a unit of local government under this subsection shall be credited against future tax liabilities, if any.

(4) An affected local government unit shall, within 90 days after receipt of the impact plan from the developer, notify the board in writing if that local government unit objects to the impact plan, specifying the reasons why the impact plan is objected to. During the 90-day period, an affected local governmental unit may petition for one 30-day extension by submitting a written request to the board stating the need and justification for the extension. The board shall grant the extension unless it finds there is no reasonable basis for the request. If no objection is received within the 90-day period or any extension thereof, the impact plan shall be approved by the board.

(5) If objections are received from a local government unit, the board shall, within 10 days, notify the developer

and forward a copy of the local government unit's objections to the developer. If within 30 days the local government unit and the developer cannot resolve the objection, the board shall conduct a hearing on the validity of the objections, which shall be held in the affected county or, if objections are received from local government units in more than one county, shall be held in the county which, in the board's judgment, is more greatly affected. The provisions of the Montana Administrative Procedure Act shall apply to the conduct of the hearing. The impact plan filed by the developer shall carry no presumption of correctness at the hearing.

(6) Following the hearing, the board shall, within 60 days, make findings as to those portions of the impact plan which were objected to and, if appropriate, amend the impact plan accordingly. The findings and impact plan, as amended, shall be served by the board upon all parties. Any local government unit or the developer, if aggrieved by the decision of the board, is entitled to judicial review, as provided by Title 2, chapter 4, part 7, in the district court in and for the judicial district in which the hearing was held.

(7) The developer shall, within 30 days of receipt of the approved impact plan, provide the board with a written guaranty that the developer will make all the payments to

the board required in the approved impact plan and according to the time schedule contained in the approved impact plan.

(8) The board shall deposit all payments received from the developer into the hard-rock mining impact account established by 90-6-304.

(9) The board shall notify the department of state lands of its receipt of the written guaranty of payment, of each required payment, and of any failure of the developer to comply with this section.

(10) Upon receipt of evidence that an affected local government unit identified in the approved impact plan is providing or is preparing to provide an additional service or facility provided for in the approved impact plan, the board shall pay to that local government unit, in one sum or in parts, the money from the hard-rock mining impact ~~fund~~ account identified in the plan as the increased cost to the local government unit of providing that public service or facility.

(11) If it is determined that an objection filed by an affected local government unit under subsection (4) is valid and it results in some remedial order by the board or court of competent jurisdiction, the local government unit shall be awarded and the developer shall pay reasonable costs and attorney fees associated with any administrative or judicial appeals filed under this section. Any attorney fees and

costs awarded shall be in addition to any amounts paid by the developer under this part."

NEW SECTION. Section 6. Effective date. Section 2 is effective on passage and approval.

-End-

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-

STATUS SHEET

49TH LEGISLATIVE SESSION

COMMITTEE ON NATURAL RESOURCES

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 6	1/7/85	1/9/85	1/14/85			1/14/85			
HB 81	1/7/85	1/18/85	1/18/85	1/18/85					
HB 158	1/14/85	1/25/85 1/28/85							
HB 178	1/14/85	1/21/85	1/21/85	1/21/85					
HB 179	1/15/85	1/21/85							
HB 180	1/14/85	1/21/85	1/21/85	1/21/85					
HB 312	1/22/85	2/23 3/20							
HB 316	1/22/85	1/25/85	1/25/85	1/25/85					
HB 362	1/22/85	2/8 2/11	2/15/85			2/15/85			
HB 396	1/23/85	1/28/85	2/22/85	2/22/85					
HB 434	1/23/85	2/1/85	2/8/85			2/8/85			
HB 493	1/28/85	2/13/85	2/22/85			2/22/85			
HB 494	1/28/85	2/13/85	2/22/85			2/22/85			
HB 495	1/28/85	2/13/85	2/22/85			2/22/85			
HB 516	1/28/85	2/1 2/8	2/25/85			2/25/85			
HB 543	1/29/85	2/4/85	2/4/85	2/4/85					

Use a separate sheet for Senate, House Bills

Rep. Raney questioned Rep. Asay about the effect of the Pick-Sloan Plan on the Yellowstone River, and was told that Pick-Sloan had no effect on the Yellowstone above its confluence with the Big Horn River.

Rep. Asay assured Rep. Grady that the Army Corps of Engineers would build no dams in Montana as a result of this resolution. He said the bank stabilization work planned would not include dams or channelization, but erosion control projects only.

Rep. Addy stated that he would object to inclusion of the Yellowstone and Big Horn Rivers in the resolution. Rep. Asay said inclusion of those rivers in the bank stabilization program is essential.

Rep. Ream asked what specific work would be done by the Corps on the Little Horn and Yellowstone Rivers, and was told by Rep. Asay that only bank stabilization techniques, such as planting vegetation and covering with rip-rap would be considered. Dams would not be employed, he said.

Rep. Grady asked how the proposed projects would affect fisheries, and was told by Gary Fritz that effects would likely be beneficial to fisheries.

Rep. Raney stated that he was not convinced that the resolution could not be viewed as an invitation for federal government control over state rivers. Rep. Asay replied that the resolution would not release control over Montana rivers, but would apply to requested, site-specific projects only.

Rep. Asay delivered a closing statement on the resolution, stating that Montana needs federal assistance with bank stabilization projects because of the high expense involved, and that HJR 5 was not relinquishing stream authority, but rather asks the federal government to fulfill an obligation under the Pick-Sloan Plan.

The public hearing on HJR 5 was closed, and the committee went on to hearing HB 6.

HOUSE BILL NO. 6: HB 6 was introduced by Rep. Bob Marks, who explained that the bill had been assigned to him by the code commissioner of the Legislative Council, and asked John McMaster to explain the proposed action.

Mr. McMaster explained that HB 6 would clarify existing laws by amending Sections 82-4-254, 85-2-123, 85-8-624, and 90-6-307 MCA, clarifying Section 3, Chapter 706, Laws of 1983; and providing an immediate effective date for Section 2, Chapter 706, Laws of 1983. McMaster also submitted two amendments to HB 6, requested by the Legislative Council, and attached hereto as Exhibit 3.

John North of the Dept. of State Lands said the proposed change to §82-4-254 MCA would clarify the vague language of the statute, and supported such change.

Gary Fritz, Dept. of Natural REsources and Conservation, said the department supports the proposed changes to 85-2-241, clarifying that statute, but opposes the provision of an immediate effective date in Section 3, Ch. 706, Laws of 1983. Don MacIntyre, counsel for DNRC, explained that DNRC opposes the addition of such a date because the 1983 legislature intended the repeal, not the suspension of Section 85-1-121. He said DNRC is currently involved in litigation before the Ninth Circuit Court of Appeals which would be affected by any change to the current Section 3 language, and hoped that such change would be delayed until the conclusion of that litigation.

Chairman Iverson said the mood of the committee would be to strike Section 2 (the proposed changes to Section 3, Ch. 706, Laws of 1983), or to hold the matter indefinitely.

Hearing on HB 6 was closed.

Chairman Iverson called for executive action on HJR 5. Rep. Asay made a Do Pass motion on HJR 5. Rep. Addy moved to amend HJR 5 by removing references to the Yellowstone and Big Horn Rivers throughout the text of the resolution. Rep. Raney seconded. Rep. Addy explained that the periodic surge of water on the Big Horn and Yellowstone Rivers is natural runoff, and not release from man-made reservoirs that would qualify for action under the Pick-Sloan Plan. Rep. Asay said that natural hazards, too, create erosion loss which would be guarded against through bank stabilization.

Rep. Grady spoke against the proposed amendment, saying it would kill the intent of the bill, which is to solve erosion problems, however they occur.

Rep. Raney said he favors the proposed amendment because the Pick-Sloan Plan specifically involves the construction and use of dams, and he wants to avoid the possibility of such construction on the Big Horn and Yellowstone Rivers.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1/9/85

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John	X		
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

1/14/85 4/7105
Exhibit 3 - HB

PROPOSED AMENDMENTS TO HB 6, INTRODUCED COPY

1. Title, line 9.
Following: "2"
Insert: "AND SECTION 6"

2. Page 13, line 3.
Following: "Section 2"
Strike: "is"
Insert: "and this section are"

These two amendments are proposed by the Legislative Council to clarify that section 6 of the bill will become effective on passage and approval. If section 6 is not amended, then, technically, it does not become effective until October 1, 1985. If it does not become effective until then it cannot operate to make section 2 of the bill effective on passage and approval.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL HB 6 - Clarifying Mining & Water Law DATE January 9, 1985

SPONSOR Marks

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Pat Wilson	Billings	Thermal Energy/Montco		
Dan MacIntyre	Helena	DNRC		
John North	Helena	State Land Board	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 14, 1985

The meeting of the Natural Resources Committee was called to order by Chairman Dennis Iverson on January 14, 1985, at 3:00 p.m. in Room 312 of the State Capitol Building.

ROLL CALL: All members were present.

The meeting was called for executive action on HB6 and HJR 5. Both measures had been heard and discussed on January 9, 1985.

HOUSE BILL 6: Rep. Addy moved to amend HB6 by striking lines 2-3 on page 6. He explained that because the Dept. of Natural Resources and Conservation is currently in litigation involving Section 2 of the bill, that matters would be confused if 85-1-121 were suspended rather than repealed.

Chairman Iverson asked Rep. Addy if he would include all references to Section 2 in his motion to amend. Rep. Addy said his motion to amend HB6 would include all references to Section 2, including those in the title, page 6, lines 2-3, and page 13, lines 3-4.

Rep. Ream asked for confirmation that the amendment would essentially omit Section 2 and was given that confirmation by Rep. Addy.

On a voice vote, the committee unanimously passed the motion of Rep. Addy, deleting Section 2 and renumbering subsequent sections of HB6.

The committee then voted unanimously in favor of a do pass motion on HB6. Rep. Addy agreed to carry the bill.

HOUSE JOINT RESOLUTION 5: Rep. Asay, sponsor of HJR 5, opened action on that resolution with a do pass motion. Researcher Hugh Zackheim explained that the Legislative Council had determined that the committee had the power to amend the title of the resolution to include the Yellowstone and Big Horn Rivers.

STANDING COMMITTEE REPORT

JANUARY 14 19 85

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 5

FIRST reading copy (WHITE)
color

AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO MINING AND TO WATER RIGHTS AND USE; AMENDING SECTIONS 82-4-254, 85-8-624, AND 90-6-307, MCA, AND SECTION 3, CHAPTER 706, LAWS OF 1983; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SECTION 2.

Respectfully report as follows: That HOUSE Bill No. 5

BE AMENDED AS FOLLOWS:

1) Page 1, lines 8-9
Following: "MCA"
Strike: ", AND SECTION 3, CHAPTER 706, LAWS OF 1983; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SECTION 2"

2) Page 5, line 25 through Page 6, line 3
Strike: section 2 in its entirety
Renumber: subsequent subsections

3) Page 11, lines 3-4
Strike: lines 3-4

AND AS AMENDED,

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STATUS SHEET

Natural Resources COMMITTEE

49th LEGISLATURE

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HJR5	MISSOURI-YELLOW-STONE RIVERBANK STABILIZATION	1/22	ASAY	1/30 2/6	BE CONCURRED IN AS AMENDED	2/6
HB6	GENERALLY CLARIFY MINING AND WATER LAW	1/22	MARKS	1/30	BE CONCURRED IN	1/30
HB81	STATE FOSSIL BILL	1/28	ELLISON	2/8	BE CONCURRED IN	2/8
HB178	ASSESSMENT OF FEES FOR STATE OPERATED HAZARDOUS WASTE FACILITY	1/29	REAM	2/13 3/6	BE CONCURRED IN	3/6
HB258	ADDS DIRECTOR OF DHES TO FLATHEAD BASIN COMMISSION	2/5	COHEN	2/13 3/6	BE CONCURRED IN	3/6

MINUTES OF THE MEETING
SENATE NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE
January 30, 1985

The second meeting of the Senate Natural Resources Committee was called to order at 1:01 p.m., January 30, 1985, by Chairman Dorothy Eck in Room 405, State Capitol Building.

ROLL CALL: All members were present except Senators Daniels and Stimatz, who were absent, and Senator Manning, who was excused.

CONSIDERATION OF HB6: Representative Marks, sponsor of HB6, stated he was sponsoring this bill at the request of the Code Commissioner. Representative Marks introduced John MacMaster, a staff expert on codification, and asked to be excused to return to the House.

Mr. MacMaster explained that Section 1 of HB6 was only to clarify the Legislature's intent. The word "not" was inadvertently omitted from the original language. Section 2 of the bill was deleted by the House of Representatives, so subsequent sections were renumbered. Also, "impact account" was substituted for "impact fund" in Section 4.

There being no proponents and no opponents, the hearing was opened to questions from the committee.

Senator Halligan inquired as to why Section 2 was deleted by the House of Representatives. Mr. MacMaster explained that the word "repeal" was used instead of "suspend." Since it was the Legislature's intent to permanently repeal the entire act after two years, the use of "repeal" was improper, and the potential interpretation that this part of the act was not intended for permanent repeal on July 1, 1985, was in question.

There being no further questions from the committee, the hearing on HB6 was closed.

CONSIDERATION OF SB166: Senator McCallum, sponsor of SB166, is sponsoring the bill at the request of the Department of State Lands. When an exchange of public and private land is contemplated, the Board of Land Commissioners holds a hearing where the public can voice its opinion. Often, before

plans. Gary Fritz also informed the committee that the Department works with the Corps on a daily basis in coordinating activities.

There being no further questions from the committee, the hearing on HJR5 was closed.

ACTION ON SB166: Senator Halligan moved that SB166 DO PASS. The motion carried.

ACTION ON HB6: Senator Mohar moved that HB6 BE CONCURRED IN. The motion carried.

FURTHER CONSIDERATION OF SB112: Bob Thompson submitted proposed amendments to the committee (Exhibit 7). These amendments provide for agreements between the districts and other federal agencies and would include streams with an average flow below 5 cubic feet per second (CFS).

ACTION ON SB112: Senator Fuller moved that the amendments to SB112 BE ADOPTED. The motion carried. Senator Fuller moved that SB112 DO PASS AS AMENDED. The motion carried.

There being no further business to come before the committee, the meeting was adjourned at 2:30.

Dorothy Eck

Senator Dorothy Eck, Chairman

ROLL CALL

Natural Resources COMMITTEE

48th LEGISLATIVE SESSION -- 1985 Date 01/30/85

SENATE SEAT #

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (Chairman	✓		
HALLIGAN, Mike (Vice Chairman)	✓		
MANNING, Dave			✓
MOHAR, John	✓		
DANIELS, M. K.		✓	
FULLER, David	✓		
STIMATZ, Larry		✓	
TVEIT, Larry	✓		
GAGE, Delwyn	✓		
ANDERSON, John	✓		
SHAW, James	✓		
HARDING, Ethel	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

JANUARY 30, 19 35

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 6

THIRD reading copy (BLUE color)

(Halligan)

GENERALLY CLARIFY MINING AND WATER LAW

Respectfully report as follows: That HOUSE BILL No. 6

BE CONCURRED IN

~~DO PASS~~

~~XXXXXXXXXX~~

Senator Dorothy Eck Chairman.